No. 183.

FILED
NOV 1 1900
JAMES H. McKENNEY,
Clerk.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1900.

No. 463.

THE FLORIDA CENTRAL AND PENINSULAR RAILROAD COMPANY, PLAINTIFF IN ERROR,

vs.

WILLIAM H. REYNOLDS, AS COMPTROLLER OF THE STATE OF FLORIDA, AND JOHN A. PEARCE, AS SHERIFF OF LEON COUNTY, FLORIDA.

ON WRIT OF ERROR TO THE SUPREME COURT OF THE STATE OF FLORIDA.

MOTION FOR RESTRAINING ORDER OR SUPERSEDEAS.

Now comes the plaintiff in error, The Florida Central and Peninsular Railroad Company, by its attorneys, and moves this honorable court to issue a restraining order or other appropriate writ to restrain the sale at public auction of a certain portion of the road-bed, tracks, and other properties of

the above named plaintiff in error pending the final disposition of this cause, said properties now being advertised for sale on Monday, November 5, A. D. 1900.

As ground for said motion, plaintiff in error respectfully shows that heretofore it filed its bill of complaint in the circuit court of the second judicial circuit of the State of Florida to enjoin the comptroller of that State and the sheriff of Leon county, in said State, from making any levy on or sale of the property composing the lines of your orator's railroad in said county on account of any assessments for taxes laid thereon for the years 1879–1881, inclusive, and to prevent their executing or attempting to execute any warrants of sale issued under such assessments, it being contended by your orator in said court that the properties in question were exempt from taxation during said years by virtue of the then existing laws of the State, and that any attempt to assess and levy taxes thereupon for said years under the provisions of a subsequently enacted statute (Act of 1885, ch. 3558, Laws of Florida) was unconstitutional.

The matter having come on to be heard, said circuit court found that the statute of 1885, under which the assessments were made for the years above mentioned, was a special statute for the collection of general revenue and did not provide nor attempt to provide an uniform, equal, and just assessment for the collection of taxes, and as to the properties of your orator was unconstitutional and void, and the defendants were accordingly enjoined as prayed.

From this decree of said circuit court an appeal was prayed to the supreme court of Florida, and it was there, on the 26th day of June, A. D. 1900, reversed by the concurrence of two

of the three judges who sat in review, the chief justice diissenting.

To review this decree of reversal so rendered a writ of error was sued out from this court, and the same was perfected on the 24th day of October, 1900, by the filing of a bond for costs in the penal sum of $1,000.

Pending the disposition of the cause by this court, the defendants in error have advertised the properties of your orator for sale under the assessments and levies in the billl of complaint complained of, and unless restrained by the order of this honorable court, will proceed to sell the same on Monday next, the 5th day of November, A. D. 1900, to the great damage and detriment of your orator.

JOHN A. HENDERSON,
FREDERIC D. MCKENNEY,
Attorneys for Florida Central and Peninsular Railroad Company.

WAYNE MACVEAGH,
Of Counsel.

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ON MOTION FOR RESTRAINING ORDER OR SUPERSEDEAS.

1.

(WESTERN UNION TELEGRAM.)

TALLAHASSEE, FLA., *October* 30, 1900.

Hon. JOHN A. HENDERSON, *Richmond, Va.:*

I have no objection to consideration of matter of bond by U. S. S. C. in F. C. & P. tax suit on next Thursday.

W. B. LAMAR,
Attorney General.

2.

(WESTERN UNION TELEGRAM.)

TELLAHASSEE, FLA., *Oct.* 31, 1900.

Hon. JAS. H. MCKENNEY, *Clerk:*

Have wired Col. J. A. Henderson that I do not object to application to the U. S. Supreme Court on tomorrow for fixing supersedeas bond in F., C. & P. R. R. tax-sale case, but I desire hereby to call attention of the court to the fact that the sum of ninety-six thousand dollars is involved in the litigation. Can you present this telegram to the court in an informal way? If so, wire me at my expense.

W. B. LAMAR,
Att'y Gen'l.